IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Crl.Rev.Pet.No. 1064 of 1999(B)

SC.93/1995 of IST ADDL. ASSISTANT SESSIONS COURT, THRISSUR
CRA.280/1997 of I ADDL. ASSISTANT SESSIONS COURT, THRISSUR
DT.8.11.1999.

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REVN. PETITIONERS: APPELLANTS/ ACCUSED
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1. PAUL, S/O.DEVASSY,
NEELANKAVIL CHALOLI HOUSE,
MANALUR DESO, THRISSUR DISTRICT

2. MARIYAM, W/O.DEVASSY,
NEELANKAVIL CHOLOLI HOUSE,
MANALUR, THRISSUR DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU

RESPONDENT: RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR , HIGH
COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/ 07 /2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.1064/1999

ORDER ON CRL.MP. 4891/1999 IN CRL.RP. 1064/1999

DISMISSED

06.07.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

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CRL.R.P.NO. 1064 OF 1999

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DATED THIS THE 6th July 2007

ORDER

The revision petitioners are the accused who are husband and mother-in-law of the deceased wife of the first accused who committed suicide on 18-1-1995 by pouring kerosene and setting ablaze. The accused stands convicted for the offence under Section 304 B read with Section 34 I.P.C. and sentenced to undergo imprisonment for seven years each. The remand period of seven days of A1 was set off.

2. The evidence adduced in the matter consisted of the testimony of PWs.1 to 12 and Exts.P1 to P6 and MOs. 1 to 6. The evidence in support of the prosecution case relied on by the prosecution is that of PW4, the maternal aunt's son of the deceased, PW5, the father of the deceased and PW6, the mother of the deceased and PW7, the younger sister of the deceased. All of them have stated that at the time of marriage there was a

demand for 15 sovereigns and Rs.15,000/- as dowry and out of which she was given only Rs.5000/- and 10 sovereigns and demanding for the balance dowry the accused used to harass the deceased. The suicide was committed just about 86 days after delivery of the child by the deceased and after three days she was brought to the matrimonial home from the house of her parents. PW6, the mother has stated that from the 7th month of pregnancy she was residing in her parental home. Counsel for the revision petitioner has pointed out that PW5, the father has not deposed anything as to the alleged cruelty, although he has stated in the chief examination that the accused used to ill-treat the deceased demanding dowry. In the cross examination he has stated that he was told by his wife as to the harassment being put up by his daughter. He has admitted that he has not stated anything in this regard when he was questioned by the police. PW4 is the first cousin of the deceased. He has deposed in the chief examination that the deceased had told him that the accused used to harass her physically as well as mentally and that she was not given food properly at the house

of her husband and that she was given only waste of the food items. He has stated that it was brought out in the cross examination that after the marriage 3-4 times she had visited his house along with her husband. It is suggested to the prosecution witnesses that the new born child was suffering from some disease with respect to the eyes and nose and it was on account of the above illness of the child that she committed suicide. The witnesses have denied the suggestion. The evidence of PW4 is not specific as to when the deceased told him about the ill-treatment or about the details of the same. The death is after about two years of marriage. PW6, the mother has also testified as to the demand for dowry. She has stated that two or three times the accused had fisted the deceased. But she has not stated the period when the alleged fisting was done. It was brought out in the cross examination that she has not stated about the demand for dowry. It was also brought out that the husband of the deceased and his family had spent for baptism of the child which was conducted just before she was taken back to the matrimonial home. PW7, the younger sister of

the deceased has also testified in support of the prosecution version that the accused used to ill-treat her sister and that the deceased had told her about the affairs in her matrimonial home. She has also stated that twice the accused had caught hold of the hairs of the deceased and fisted her and that a most of the days he used to quarrel with her after getting drunk and that she used to be served with waste of food and she used to drink pipe water to quench thirst. PW11, the Sub Inspector who questioned the witnesses at first, has stated in the cross examination that none of the witnesses have stated that at the time of marriage there was a demand of dowry of 15 sovereigns and 15,000 rupees and that the deceased used to be harassed for the same. PW11 has also stated that PW6, the mother has not stated that the deceased used to be harassed physically and mentally by the accused. PW12, the Dy.S.P. who subsequently questioned the witnesses has also stated in the cross examination that none of the witnesses have stated to him that there was a demand at the time of marriage for 15 sovereigns and 15000 rupees. He has also deposed that Pw7 the sister has

also not stated that every day the accused used to ill-treat the deceased after getting drunk. It is also pertinent to note that none of the witnesses have stated anything as to any ill-treatment by the 2nd accused - mother-in-law of the deceased. In order to attract Section 304 B, there should be evidence to show that the deceased was subjected to cruelty soon before her death. Evidently for the last about six months before the death she was living in her parental home and on the third day after she was brought to the matrimonial home, the incident took place. I find that the evidence adduced is too vague and not specific with respect to the allegations of cruelty. The allegations made by the witnesses, it was brought out, has not been mentioned when they were questioned by the investigating officer. Moreover it appears form the evidence of PW5, the father that he was unaware of the circumstances with respect to the ill-treatment alleged and his version is that his wife told him about the above situation appears to be somewhat strange as PW5, being the head of the house would have been aware of the alleged ill-treatment of his daughter in the normal circumstances.

In the circumstances, I find that the evidence adduced is clearly insufficient to hold that the prosecution has proved beyond reasonable doubt that the accused is guilty for the offence under Section 304 B. The above evidence is also not sufficient to hold that the accused is guilty for the offence under Section 498 A also. Hence the findings of the courts below are set aside. The accused are acquitted.

K.R.UDAYABHANU, JUDGE

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K.R.UDAYABHANU, J

CRL.R.P. NO. 1064 OF 1999
ORDER

6-7-2007